

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

BASF CATALYSTS LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 05-11241-JLT
)	
UNITED STATES OF AMERICA, <u>et al.</u> ,)	<i>(Electronic filing)</i>
)	
Defendants.)	
)	

JOINT STATUS REPORT AND MOTION TO DEFER HEARING ON SETTLEMENT

Plaintiff BASF Catalysts LLC (“BASF” or “Plaintiff”) and Defendants the United States of America, et al. (“United States” or “Defendants”) hereby jointly file a status report and motion to defer a scheduled settlement hearing. A settlement hearing is currently scheduled for June 12, 2008, and the parties seek to defer that hearing by approximately one month, until July 11, 2008.

In support of the relief requested herein, and to explain the status of their settlement-related efforts in this case, the parties state the following:

1. On April 23, 2008, the parties appeared at a status hearing before the Court and explained that a draft settlement instrument — i.e., a draft consent decree that, if approved and entered, would constitute the final judgment completely resolving this case — was in the very last stages of being drafted by both Plaintiff’s counsel (Mr. Ronald L. Kuis) and the undersigned Department of Justice trial attorney (Mr. Stephen E. Crowley). Indeed, within approximately one week following the status hearing, counsel for the parties agreed to the terms of the proposed settlement instrument and finished their drafting efforts. Counsel then began the process of

obtaining the necessary approvals of the settlement by those government officials and corporate officers with actual settlement authority.

2. Just last week, Plaintiff BASF completed its review and approval process and signed a copy of the proposed consent decree. The United States has not yet approved the proposed consent decree, and the United States will not have secured final approval of the proposed consent decree prior to the June 12th settlement hearing.

3. By law, the proposed consent decree in this case must be formally approved by the Associate Attorney General of the United States. Following the negotiation of a proposed settlement instrument, the undersigned Department of Justice attorney must draft briefing memoranda to the Associate Attorney General recommending formal approval. The formal Department of Justice approval process begins after the terms of the proposed consent decree have been approved by high ranking officials within each of the federal agencies that are named as defendants in this case, as well as by the plaintiff(s). Additionally, before the proposed consent decree is presented to the Associate Attorney General, it must be reviewed and approved by the Assistant Attorney General for the Environment and Natural Resources Division at the Department of Justice.

4. In this instance, the undersigned Department of Justice attorney recently completed his written recommendation of the proposed consent decree to the Assistant Attorney General for the Environment and Natural Resources Division. As such, time is needed for the Assistant Attorney General to review and approve the proposed settlement. Subsequently, if the proposed settlement is approved and presented to the Associate Attorney General, then time will be needed for the Associate Attorney General to review and approve the proposed settlement.

5. The Assistant Attorney General oversees a Division of approximately 425 attorneys handling approximately 6,900 active cases. The Associate Attorney General oversees litigation conducted by several litigating divisions of the Department of Justice. Based on government counsel's experience, we anticipate that the review and approval of the proposed settlement by these two high ranking Department of Justice officials will take approximately one month.

6. While the approval processes of the Justice Department and other federal agencies may seem cumbersome, it serves the important purpose of ensuring that any final settlement terms are fully briefed to the high level and accountable decision-makers, and that a precise record is made of the actual, finally-approved agreement. This ensures that the government's and the public's best interest is truly served. Thus, we trust that the Court will appreciate that the proposed settlement is not one that can be fully and finally approved by the government within a time period shorter than one month.

7. Given that the United States will not have secured final approval of the proposed consent decree prior to the June 12 settlement hearing, the United States will not be able to recommend the proposed consent decree to the Court at that time. As such, the parties respectfully request that the settlement hearing be deferred for 30 days, so that the review and formal approval of the proposed consent decree can be completed before any hearing is held

For the foregoing reasons, the court should continue the June 12th settlement hearing by one month, or until July 11, 2008.

Respectfully submitted,

FOR THE UNITED STATES:

RONALD J. TENPAS
Assistant Attorney General
Environment & Natural Resources Division

Dated: June 10, 2008

/s/ Stephen E. Crowley
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Dated: June 10, 2008

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June 2008, a true and accurate copy of the foregoing Joint Status Report and Motion was filed electronically with the Court's CM/ECF system, which automatically notifies the below counsel of record of the filing, via e-mail, as follows:

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